

Chapter 1

Law and Legal Reasoning

Chapter Objectives

By the end of this chapter, you should be able to:

- Explain how common law and civil law differ.
- Explain the creation and development of the common law.
- Explain the creation and development of statutory law.
- Explain how common law and civil law systems differ.
- List the sources of administrative law.
- Define *stare decisis*.

Why Does the Legal Environment of Business Matter?



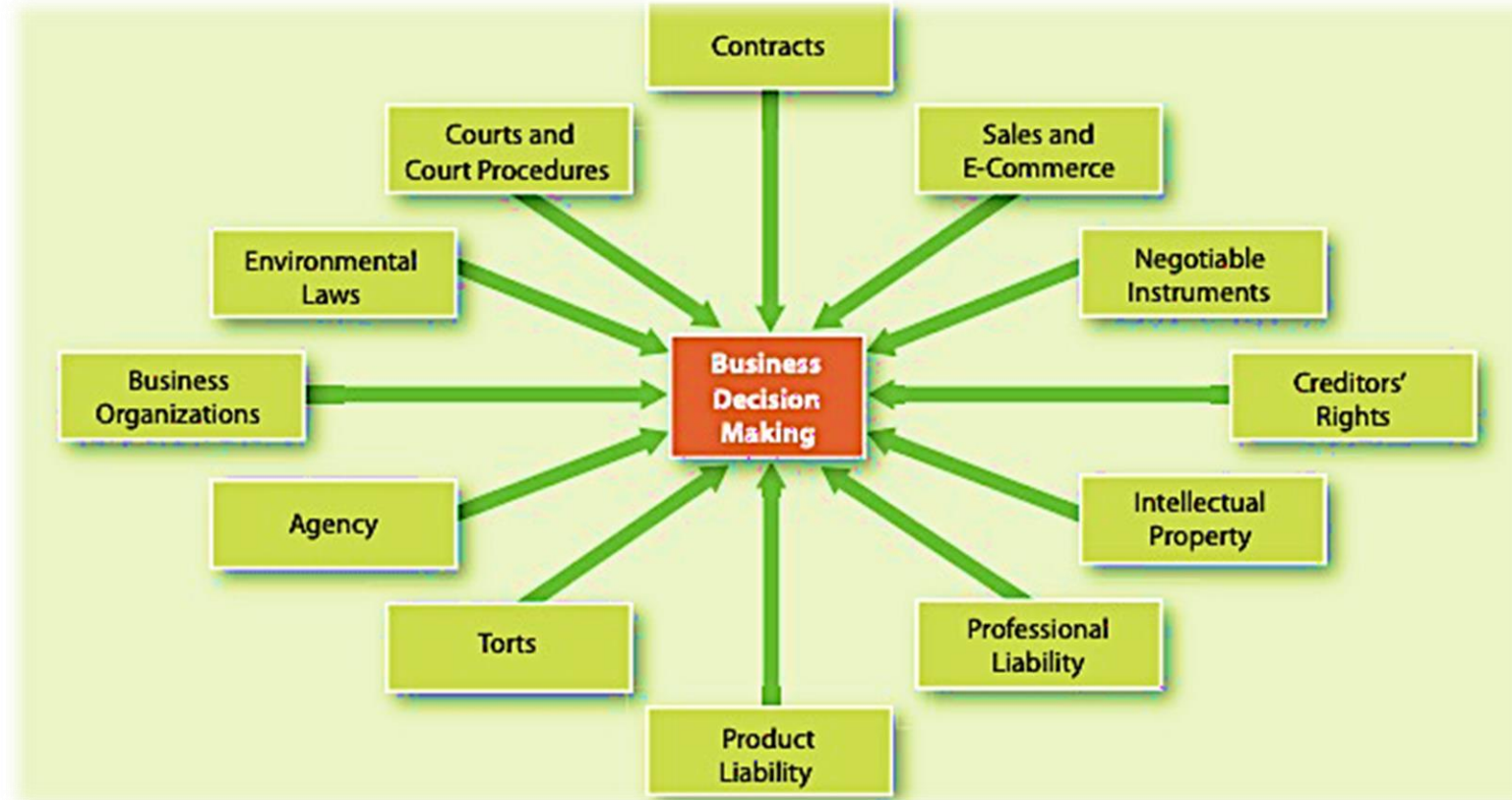
Scenario Example

- **If a car company prematurely releases its new electric car into the public without testing it first, how would this impact their business?**
- **How would certain laws be reasoned and applied in this kind of situation?**


Law and Legal Reasoning

- Business Activities and the Legal Environment
- Sources of American Law
- The Common Law
- Classifications of Law

Areas of Law That May Affect Business Decision Making



Business Activities and the Legal Environment

- Laws and regulations affect almost all business activities such as:
 - Hiring
 - Firing
 - Workplace safety
 - Manufacturing and marketing products
 - Business financing
 - And more
- **Example 1.1** YouTube v. Viacom 

Sources of American Law

Constitutional Law

- Based on the the U.S. Constitution

Statutory Law

- Laws enacted by legislative bodies

Administrative Law

- Rules, orders, and decisions of administrative agencies

Case Law and Common Law Doctrines

- Governs all other areas of law and is part of the common law tradition

Knowledge Check 1

Which of the following are sources of American Law?

- A. State Legislative Bodies
- B. Administrative Agencies
- C. U.S. Constitution
- D. All of the above

Statutory Law

Local Ordinances

- Covers municipal or county matters not covered by federal or state law

Applicability of Statutes

- **Example 1.2** Sanctuary Cities



Uniform Laws

- Formed by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for trade and commerce businesses among the states

The Uniform Commercial Code (UCC)

- Governs commercial transactions in all 50 states

Administrative Law

Federal, State, and Local Agencies

- Food and Drug Administration (FDA)
- Securities and Exchange Commission (SEC)
- Federal Communications Commission (FCC)

Agency Creation

- **Example 1.3** The Federal Trade Commission (FTC)



Rulemaking, Enforcement, and Investigation

- Administrative agencies make new or amend old rules with investigatory and prosecutorial powers.

Adjudication

- Trial-like hearing before an administrative law judge (ALJ).
 - Courts give significant weight to ALJ's decisions.

Group Breakout Discussion: Ethical Issue

- **Scenario:** The Federal Trade Commission (FTC) functions with the three branches of government:
 1. Create rules
 2. Conduct investigations
 3. Prosecute and pass judgement on violators
- FTC powers often go unchecked and some businesspersons have suggested their exercise of this power is unethical.
- Do administrative agencies exercise too much authority?

The Common Law

Early English Courts

- General rules that began in 1066

Stare Decisis

- Controlling precedents
- *Stare Decisis* and Legal Stability
- Departures from precedent
- **Case Example 1.6** Brown v. Board of Education of Topeka
- When there is no precedent
- *Stare Decisis* and Legal Reasoning



Equitable Remedies and Courts of Equity

- **Example 1.7** Elena v. Rowan



Managerial Strategy: The Power of Precedent

Polling Question

Should Roberta consider paying her salespeople overtime even though it is not required by federal law?

Yes

No

Explain your reasoning to another person or classmate.

Schools of Legal Thought

The Natural Law School

- Aristotle's notion that people have natural rights

Legal Positivism

- Antithetical to Aristotle, rights only exists because of laws

The Historical School

- Past laws shape present laws

Legal Realism

- Laws cannot be totally uniform, because human biases may or may not always exist

Landmark in the Law: Equitable Maxims

Polling Question

Under the doctrine of promissory estoppel, can a person who has reasonably and substantially relied on the promise of another, obtain some measure of recovery, even though no enforceable contract exists?

Yes

No

Share your answer and explain your reasoning to another person or classmate.

Classifications of Law

- **Example 1.8** Worker's Compensation



Civil Law and Criminal Law

- Civil law involves cases between private parties such as breach of contract or negligence resulting in injury.
- Criminal law are torts committed against society such as financial fraud and kidnappings.

Common Law and Civil Law System

- The English common law system, and Roman civil law system dominate the globe today.

National Law and International Law

- National laws pertain to each nation, while international law treaties govern relations among nations.

Knowledge Check 2

Civil law cases involve suits such as injury from negligence or breach of contract.

True

False

Finding and Analyzing the Law

Books and Online Sources

- Federal and state statutes
- The U.S. Constitution and state constitutions
- Regulation issues by administrative agencies
- Court cases

United States Code (U.S.C) and State Codes

United States Code (U.S.C.)

- Example: “15 U.S.C. Section 1,” means the statute can be found in Section 1 of Title 15.
- “Section” may be designated by this symbol §, or use §§ for “Sections.”
- www.gpo.gov

State Codes

- Example: “13 Pennsylvania Consolidated Statutes Section 1101,” means the statute can be found in Section 1101 of Title 13 of the Pennsylvania code.

Administrative Rules

- Published in the Federal Register
- Later incorporated into the Code of Federal Regulations (C.F.R.)
- Example: “17 C.F.R. Section 230.504” can be found in Section 230.504 of Title 17

Finding Case Law

State Court Decisions Are Not Published

- Regional Reporters
- Case Citations
 - Example: *NetScout Systems, Inc. v. Gartner, Inc.*, 334 Conn. 396, 223 A.3d 37 (2020).
 - The opinion in this case can be found in Volume 334 of the official *Connecticut Reports*, on page 396.
 - The parallel citation is to Volume 223 of the *Atlantic Reporter, Third Series*, page 37.

Federal Court Decisions Published Unofficially

- *Federal Supplement* (F.Supp., F.Supp.2d, or F.Supp.3d)
- *Federal Reporter* (F., F.2d, or F.3d)
- *Bankruptcy Reporter* (Bankr. or B.R.)
- *United States Reports* (U.S.)
- *Supreme Court Reporter* (S.Ct.)
- *Lawyers' Edition of the Supreme Court Reports* (L.Ed. or L.Ed.2d)

Unpublished Opinions and Old Cases

- Westlaw® abbreviated in citations as “WL” online
- Classic cases from English courts may not use mentioned identifiers

Reading and Understanding Case Law

Case Titles and Terminology

- Example: ***Adams v. Jones***
- Parties to Lawsuits: ***Adams*** (plaintiff) versus ***Jones*** (defendant or respondent)
- Judges and Justices
- Decisions and Opinions

A Sample Court Case

- Follows basic format:
 - Facts, Issue, Decision, and Reason

Reading and Understanding Case Law Discussion

How to Brief Cases

Follows this format:

1. Citation
2. Facts
3. Issue
4. Decision
5. Reason

Knowledge Check Video: *Stare Decisis*



Stare Decisis

Knowledge Check Video Question

The common law is the root of American Law. Which of the following characteristics describes *stare decisis* (which means “let the decision stand”)?

- A. Binding decision
- B. Efficiency and stability
- C. Decision can be overturned
- D. All of the above

Video Debrief: “Let the decision stand”

Do you think it's reasonable and fair for courts to follow legal precedents set by previous published court decisions?

Provide an example of a case where *stare decisis* would be applicable.

Self-Assessment

1. What concepts did you find difficult, and thus need a review?
2. How might the topics in this chapter come up in the future in your personal (or work) life?
3. How can you use your personal (or work) experience to contribute for a class discussion on the topics in this chapter?
4. Which topics would you like to independently learn more about?

Summary

Now that the lesson has ended, you should have learned how to:

- Explain how common law and civil law differ.
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- Explain the creation and development of statutory law.
- Explain how common law and civil law systems differ.
- List the sources of administrative law.
- Define *stare decisis*.